

Submission of electronic data on pawn transactions to law enforcement

HB 1839 by Solomons (Armbrister)

DIGEST: HB 1839 would have allowed a county sheriff or city police chief to place a hold order on goods held by a pawnbroker if the officer reasonably suspected that the goods had been stolen or otherwise misappropriated. The pawnbroker would have had to retain the goods until the order expired, was released, or was overturned by a court order. A pawnbroker who generated computerized pawn and purchase tickets would have had to transmit electronically data about the transaction to either a law enforcement agency or a third-party provider within seven days of the transaction. The bill would have specified that a third-party provider could establish a secure repository for transaction data and charge law enforcement agencies a reasonable fee for access to the data. For 180 days after electronically transmitting data, a pawnshop would have had to make paper copies of pawn or purchase transaction documents available for on-site inspection by a requesting law enforcement officer. After the 180-day period, a pawnshop would have had to make paper copies available to law enforcement only for specifically requested evidentiary purposes or for transactions that had been conducted during a computer malfunction.

GOVERNOR'S REASON FOR VETO: "House Bill No. 1839 would reduce local control by mandating the use of private third-party providers in gathering pawnbroker's transaction information. This legislation also diminishes an important criminal investigation tool by limiting the type and extent of pawn transaction information available to local law enforcement.

"For example, local law enforcement currently has the ability to receive pawn transaction information upon request. This bill limits their access to paper transaction documents to on-site inspection if the pawnbroker releases the transaction data electronically to a private company. As a result, police officers will no longer receive paper copies but will be required to use a portable photocopier to generate admissible records. Also, pawnbrokers are no longer required to share the paper ticket with the police after 180 days, unless it is sought pursuant to a criminal investigation. The unintended consequence of these provisions is that local law enforcement may not be able to access any pawn transaction information during the seven days permitted by the bill for the transfer of electronic information. This limitation places severe restrictions on very time-sensitive information."

RESPONSE: Rep. Burt Solomons, the bill's author, said: "I am disappointed that the governor has chosen to veto HB 1839. This bill was the result of several years of interim studies, and it represented a fair and balanced approach to helping police departments investigate property crimes while protecting the privacy rights of the millions of innocent pawnshop customers in this state.

"In his veto proclamation, the governor said HB 1839 'would reduce local control by mandating the use of private third-party providers in gathering pawnbroker's transaction information.' The plain language of the bill provides otherwise.

Pawnbrokers transmit data electronically to a third-party provider *only if the police department chooses this option* (see Section 371.352).

“The bill provides four means of providing data to a police department in an electronic format. First, the pawnbroker can use a third-party provider, if the police department chooses this option. Second, the pawnbroker can transfer a subset of the data to the police department directly, if the police department chooses this option. Third, the pawnbroker may agree to transfer the complete data to the police department. Finally, the pawnbroker and police department may agree on any other means of sharing information. This is hardly a reduction in local control.

“The governor reports that the bill ‘limit[s] the type and extent of pawn transaction information available to local law enforcement.’ Again, the plain language of the bill suggests otherwise. In order to balance the privacy rights of innocent customers with the need to improve law enforcement’s ability to investigate property crimes, the bill limits the information available to a police officer *unless the officer suspects an item to be stolen* (see Section 371.355). It is not unreasonable to ask that a police officer have suspicion that an item is stolen before providing that officer with the private information about an individual.

“Finally, the governor objects to ‘the unintended consequence’ of provisions limiting the time during which a pawnbroker must make paper copies of pawn transaction tickets available for on-site inspection. The bill provides that a pawnbroker does not have to provide access to paper copies of a ticket after 180 days following the date that the data on that ticket was electronically reported. There is no unintended consequence of denying police officers access to paper tickets during the seven days (or fewer) that a pawnbroker has to report the data electronically.

“HB 1839 would have made the jobs of law enforcement significantly easier by providing police officers with access to electronic data, instead of the paper copies used today. However, it apparently did not provide access to enough data to satisfy the police chiefs association, which has decided that the current, inefficient paper process is better than the fair and balanced approach HB 1839 takes.

“Because the police chiefs association has goaded the governor into vetoing this bill, there will continue to be very little, if any, sharing of pawnshop data electronically. Because of this veto, there will continue to be informal and uncertain procedures directing pawnbrokers to hold merchandise that is suspected of being stolen. Because the police chiefs association decided it must have fully searchable access to the private customer information of the more than 99 percent of pawn transactions that do not involve stolen goods, the governor has vetoed the best bill the legislature could pass to assist law enforcement officials’ investigations of property crimes.”

Sen. Ken Armbrister, the Senate sponsor, was unavailable for comment.

NOTES:

HB 1839 was analyzed in Part Two of the April 30 *Daily Floor Report*.